

Jeffery J. Oven  
Mark L. Stermitz  
Jeffrey M. Roth  
CROWLEY FLECK PLLP  
490 North 31st Street, Ste. 500  
Billings, MT 59103-2529  
Telephone: 406-252-3441  
Email: [joven@crowleyfleck.com](mailto:joven@crowleyfleck.com)  
[mstermitz@crowleyfleck.com](mailto:mstermitz@crowleyfleck.com)  
[jroth@crowleyfleck.com](mailto:jroth@crowleyfleck.com)

Peter R. Steenland  
Peter C. Whitfield  
Lauren C. Freeman  
SIDLEY AUSTIN LLP  
1501 K Street, NW  
Washington, DC 20005  
Telephone: 202-736-8000  
Email: [psteenland@sidley.com](mailto:psteenland@sidley.com)  
[pwhitfield@sidley.com](mailto:pwhitfield@sidley.com)  
[lfreeman@sidley.com](mailto:lfreeman@sidley.com)

*Counsel for TransCanada Keystone Pipeline, LP and TransCanada Corporation*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

---

INDIGENOUS ENVIRONMENTAL  
NETWORK, *et al.*,

and

NORTHERN PLAINS RESOURCE  
COUNCIL, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT  
OF STATE, *et al.*,

Federal Defendants,

and

TRANSCANADA CORPORATION,  
*et al.*,

Defendant-Intervenors.

CV 17-31-GF-BMM

**DEFENDANT-INTERVENORS'  
MOTION TO AMEND THE  
COURT'S ORDER ON SUMMARY  
JUDGMENT**

## MOTION

Pursuant to Rule 59(e) and Rule 60(b), Defendant-Intervenors TransCanada Keystone Pipeline, LP and TransCanada Corporation (collectively, TransCanada) respectfully request that the Court clarify or, if necessary, amend its Order of November 8, 2018 (Doc. 211) and its Order of November 15, 2018 (Doc. 212). Final judgment was granted on November 15, 2018.

As set forth in TransCanada's Memorandum in Support accompanying this motion, TransCanada is filing this motion to clarify or modify the Court's injunction, which TransCanada interprets as preventing the company from continuing preconstruction activities. Preconstruction activities, examples of which are described in the Declaration of Norrie Ramsay (e.g., construction planning, project development, permit application, landowner contacts and surveying), have no irreparable consequences and are unrelated to the purported deficiencies that the November 8, 2018 Order identifies. The injunction of these activities, however, impose substantial and irreparable harm on TransCanada.

For the foregoing reasons and the grounds set forth in TransCanada's accompanying Memorandum, TransCanada moves to clarify or amend the Court's November 8, 2018 Order (Doc. 211) and November 15, 2018 Order (Doc. 212).

Pursuant to Local Rule 7.1(c)(1), counsel for TransCanada contacted counsel for the parties regarding the filing of this motion. Plaintiffs Northern Plains

Resource Council, Bold Alliance, Center for Biological Diversity, Friends of the Earth, Natural Resources Defense Council, and Sierra Club and Plaintiffs Indigenous Environmental Network and North Coast River Alliance indicated to counsel that they will reserve judgment on the motion until after reading it. Federal Defendants indicated that they do not oppose this motion.

Dated this 20th day of November, 2018,

*/s/ Jeffery Oven*  
Jeffery J. Oven  
Mark L. Stermitz  
Jeffrey M. Roth  
CROWLEY FLECK PLLP  
490 North 31st Street, Ste. 500  
P.O. Box 2529  
Billings, MT 59103-2529  
Telephone: 406-252-3441  
Email: [joven@crowleyfleck.com](mailto:joven@crowleyfleck.com)  
[mstermitz@crowleyfleck.com](mailto:mstermitz@crowleyfleck.com)  
[jroth@crowleyfleck.com](mailto:jroth@crowleyfleck.com)

*/s/ Peter Steenland*  
Peter R. Steenland  
Peter C. Whitfield  
Lauren C. Freeman  
SIDLEY AUSTIN LLP  
1501 K Street, NW  
Washington, DC 20005  
Telephone: 202-736-8000  
Email: [psteenland@sidley.com](mailto:psteenland@sidley.com)  
[pwhitfield@sidley.com](mailto:pwhitfield@sidley.com)  
[lfreeman@sidley.com](mailto:lfreeman@sidley.com)

*Counsel for TransCanada Keystone  
Pipeline, LP and TransCanada Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 20, 2018, a copy of the foregoing motion was served on all counsel of record via the Court's CM/ECF system.

*/s/ Jeffery Oven*